

Δ THEROUX ENVIRONMENTAL

Thursday, March 27, 2003

VIA CARRIER DELIVERY

Dockets Office
California Energy Commission
1516 Ninth St., MS-4
Sacramento, CA 95814-5512

Attn: **Docket No. 03-RPS-1078**


Dear Sir/Madam:

Enclosed for filing are an original and 12 copies of the **COMMENTS OF CHATEAU ENERGY, INC., TO THE ENERGY RESOURCES CONSERVATION AND DEVELOPMENT COMMISSION: EARLY RESOLUTION (PHASE 1) OF RENEWABLE PORTFOLIO STANDARD IMPLEMENTATION**. Comments are filed following, and in response to, the Staff Workshop in Renewables Portfolio Standard Proceedings conducted March 25 2003, pursuant to the captioned Docket.

To facilitate electronic filing of party comments to the Energy Commission website and for further distribution as warranted, an electronic version of this letter and the attached Comments is being concurrently submitted to the Dockets Office at: doCKET@energy.state.ca.us.

In addition to the original and 12 copies intended for internal Agency distribution, please find one copy of this filing intended to be file-stamped by Dockets and returned to this office in the enclosed stamped and self-addressed envelope. Thank you for your cooperation.

Sincerely yours,


Michael Theroux
Principal

Enclosures

cc: (via electronic mail, with attachments)
Tim Tutt, Renewables Program CEC
Dan Adler, Strategic Planning CPUC
Howard Levenson, CIWMB
Fernando Berton of CIWMB
Dana Dutcher, Chateau Energy Inc.

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**BEFORE THE ENERGY RESOURCES CONSERVATION
AND DEVELOPMENT COMMISSION
OF THE STATE OF CALIFORNIA**

**Implementation of Renewable Portfolio Standard
Legislation** (Public Utilities Code Sections 381, 383.5,
399.11 through 399.15, and 445 [SB 1038], [SB 1078])

Docket No. 03-RPS-1078

Committee Order on RPS Proceedings and CPUC
Collaboration (March 2003)

Early Resolution (Phase 1)

**COMMENTS OF CHATEAU ENERGY, INC.
TO THE ENERGY RESOURCES CONSERVATION
AND DEVELOPMENT COMMISSION:**

**EARLY RESOLUTION (PHASE 1)
OF RENEWABLE PORTFOLIO STANDARD
IMPLEMENTATION**

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Date: March 27, 2003

**COMMENTS OF CHATEAU ENERGY, INC.
TO THE ENERGY RESOURCES CONSERVATION
AND DEVELOPMENT COMMISSION:**

**EARLY RESOLUTION (PHASE 1)
OF RENEWABLE PORTFOLIO STANDARD
IMPLEMENTATION**

Chateau Energy, Inc. (CEI) provides the following comments to address critical issues, agency responsibilities, decision-making processes, and tentative schedules for action items needed to implement the Renewable Portfolio Standard (RPS).

Pursuant to the captioned Docket presenting the "Committee Order on RPS Proceedings and CPUC Collaborative Guidelines", within the "RPS Collaborative Workplan (Attachment A)", the Collaborative Committee's designated staff of the California Energy Resources Conservation and Development Commission (Energy Commission) and the California Public Utilities Commission (Commission) are to address their specific implementation responsibilities in a three-step process. To reiterate the three-phase scheduled issues most pertinent to CEI's repowering project:

- Early Resolution, Phase 1: The Energy Commission is responsible for a decision **Defining Eligible Renewable Technologies**. The collaborative agencies must take public workshop comment into account, in addition to staff recommendations. A Draft Decision will be issued by the Collaborative Committee, followed by formal full CEC Commission final decision at a regular Energy Commission Business Meeting.
- Resolution by June 30, 2003, Phase 2: (a) Collaborative Staff will address **Certifying In-State Resources** as part of development of the guidelines for the New and the Existing Renewable Resource Accounts. (b) Establishing **Guidelines for SEP Payments**.
- Resolution by December 31, 2003, Phase 3: (a) Non-IOU portfolio standards, along with (b) Ensuring Resource Diversity, will be addressed by the full Collaborative Staff.

This filing addresses issues specific to repowering of CEI's Mesquite Lake Renewable Power Plant (Facility). Comments focus on elements discussed in public workshops before the joint Collaborative Staff.

Subsequent to the captioned Order, the Energy Commission released the "*NOTICE OF STAFF WORKSHOP IN RENEWABLES (sic) PORTFOLIO STANDARD PROCEEDINGS*". In this document, the collaborative staff "...asks interested parties to provide information at the workshop..." on a variety of issues. Comments provided herein also reflect questions posed in the Notice, including perceived conflicts between the Order and attendant Workplan, and the subsequent Notice.

I. Service Summary

CEI holds Intervenor Status in parallel Proceedings before the Commission; no formal intervenor status is required for participation in the "RPS Proceeding and CPUC Collaboration". CEI will serve Comments to the Energy Commission pursuant to this Order and as directed by staff. CEI will serve Comments to the service list for Commission Proceedings R.01-10-024, as Attachment A to Testimony filings now due April 1, 2003 for the RPS. Communications in connection with this proceeding should be served upon CEI and its representative at the following address:

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II. Introduction

This introduction is provided to place CEI's brownfields-repowering project in context of the Order Instituting Rulemaking (OIR) process for implementation of the recent RPS legislation SB 1078, and concurrently of SB 1038, the Renewable Energy Program (REP).

Chateau Energy, Inc., (CEI) owns the Mesquite Lake Renewable Power Plant (Facility), an existing in-state multi-megawatt generation capacity renewable fuel power plant with all permits intact. The Facility is currently standing idle; CEI awaits interagency RPS eligibility determinations necessary for further reconstruction and repowering. Both regulatory and technical information regarding CEI's proposed use of **non-combustive thermal conversion** technology can be brought before this RPS collaborative working group, with the intent to facilitate broader RPS understanding of specific newly-commercial renewable processes.

The Facility's core conversion technology is presently comprised of two five-hearth Lurgi incineration furnaces, used by prior owners to combust up to 1200 tons per day of cow manure augmented as needed with natural gas, for generation of around 18 megawatts of electricity. The prior owners successfully bid in the Energy Commission's New Renewable Resources Third Auction to **repower the facility for conversion of waste tires**, rather than manure. New legislation, enacted since Facility acquisition by CEI, now requires that different (non-combustive) core technology be employed for generating renewable energy from waste. SB 1038 specifically precludes the currently installed incineration technology from funding eligibility, ensuring that no state funds shall be available for *combustive* conversion (incineration) of waste tires (§ 15(D)(4)). AB 2770 Mathews (Solid Waste: Conversion Technologies, chaptered September 20, 2002) defines non-combustive thermal conversion of all forms of solid waste as *gasification*, rather than incineration.

CEI has completed a lengthy global best available technology (BAT) assessment upon non-combustive thermal conversion technologies, and for the proposed waste-tire feedstock permitted for the Facility. CEI has now decided on **Plasma Gasification and Vitrification**, as developed and commercialized by the team of Westinghouse / Hitachi. This technology, under development for decades, appears to provide the most appropriate waste conversion technology applicable to RPS energy negotiations.

CEI continues to file comments and testimony in the RPS Proceedings to support its position. CEI hopes to proffer this conversion process as one of the newest technologies available for clean conversion of recycled feedstock to renewable energy. Additional technical information will be provided and open for discussion, as the Working Group desires. Your questions are welcome.

III. Comments

Question 33: How does the Energy Commission determine if a solid waste conversion technology meets the requirements in SB 1078?

Clarification of "Defining" (per language in the Order's Workplan, Phase 1) versus "Certifying" (per Phase 2) is needed. Phase 1 can be accomplished by development of *Categories and Sub-Categories* of technologies; Phase 2 will require *Performance Criteria per Sub-Category*, recognizing appropriate conditioning regulations.

The first page of the Workshop Notice asks interested parties to respond to a two-part question: "What renewable technologies should be considered eligible to meet the RPS, and what criteria might be needed to determine whether a technology meets the criteria established in SB 1078 and SB 1038?" This request *mixes elements* from Phase 1 and Phase 2 of the Workplan attendant to the Order, and CEI believes will exacerbate clear Decision release required by the Order. The specific Phase 1 task stipulates that a "Definition of Eligible Renewable Technologies" be developed, and leaves to Phase 2 the more difficult task of "Establishing Process to Certify In-State Resources" as renewable.

An example is offered below, relating separation of the concepts and determinations of "Definition" versus "Certification". The example is pertinent to CEI's repowering project, yet reflects broadly on the Collaborative Committee's scheduling of tasks.

It is CEI's understanding that "Solar Energy Generation Systems" would be an acceptable example of a technology category *a priori* "Defined" as an "Eligible Renewable", and as such, an appropriate level of discrimination for Phase 1 Early Resolution. Any one "Eligible Renewable" application that might utilize a solar energy technology could then

reasonably be required to meet all regulatory milestones established in Phase 2 to be "Certified" as an appropriate "In-State Resource"; this would constitute degree of criteria resolution appropriate to Phase 2.

A *categorical definition* is thus in common usage that includes all technologies utilizing *solar energy generation*. The Energy Commission Decision can without difficulty list this category as a Phase 1 "Definition" of "Eligible Renewable Technologies". If further sub-categorization is considered appropriate, similar technologies might be formally defined, including but not limited to (a) photovoltaics, (b) solar-thermal, and etcetera.

No analogous *category* inclusive of technologies utilized for *generation of energy from the conversion of waste* has been commonly accepted as *renewable energy generation*. The very term, "Waste-to-Energy" as it might be applied to the concept of a "renewable resource" is inherently contentious, and has resulted in years of intense assessment and debate¹. Yet *solar energy as a technologic category* does not carry a legacy of the profound environmental damage associated with "burning trash" to create energy. CEI understands that defining *any form* of Waste-to-Energy as an Eligible Renewable Technology requires much closer scrutiny than necessary for any other category.

CEI believes that the intent of the combined RPS and REP legislation, taking into account the conditioning language legislated by AB 2770 (Matthews, Conversion Technologies: Solid Waste), is to *promote* waste-to-energy project development, utilizing state-of-the-art gasification technology. In this "sub-category" of waste-to-energy technologies, a synthetic fuel gas, or "syngas" is produced that can be cleaned and treated prior to direct combustion. This single critical step defines a basis upon which *non-thermal conversion of solid waste* for energy generation can be supported by state funds. Legislative passage of AB 2770 may be recognized as evidence that the "Waste-to-Energy" argument has, in part, reached resolution sufficient to direct appropriate elements of RPS implementation.

CEI recommends that the Energy Commission address the **Phase 1** task of *Defining Eligible Renewable Technologies* by entering into Decision a formal category of **Waste-to-**

¹ See, for example, Regulation of Conversion Technologies: An issue paper developed by staff of the CIWMB's Waste Prevention & Market Development Division. California Integrated Waste Management Board, November 27, 2001. As a formal *non-market participant* to the RPS, CIWMB brings expertise pertinent to Waste-to-Energy issues, and specific to clarification of *non-combustive thermal conversion* as a preferred technologic approach.

Energy. Within this category, a non-exhaustive list of specific sub-categories could then be defined, including but not limited to technologies developed for energy generation from (a) landfill gas recovery; (b) waste heat recovery; (c) anaerobic digestion for non-thermal production of “biogas”; (d) non-combustive thermal conversion (“gasification”, “pyrolysis”); (e) combustive thermal conversion (“incineration”, “burning”).

CEI recommends that the Phase 2 task to *Establish Process to Certify In-State Resources* rely in part on criteria legislated in AB 2770, as the law now separates technologic approaches to energy generation based on “Incineration” from Gasification”. **Performance Criteria** and emissions benchmarks pertinent to each sub-category will be necessary; this should be based on researched data.

CEI believes that the intent of the combined RPS and REP legislation, taking into account the conditioning language legislated by AB 2770 (Matthews, Conversion Technologies: Solid Waste), is to *promote* waste-to-energy project development, utilizing state-of-the-art gasification technology. In this “sub-category” of waste-to-energy technologies, a synthetic fuel gas, or “syngas” is produced that can be cleaned and treated prior to direct combustion. This single critical step defines a basis upon which *non-thermal conversion of solid waste* for energy generation can be supported by state funds. Legislative passage of AB 2770 may be recognized as evidence that the “Waste-to-Energy” argument has, in part, reached resolution sufficient to direct appropriate elements of RPS implementation.

Question 34: In defining “solid waste conversion” technologies that are to remove all recyclable materials and green waste materials from the solid waste stream “to the maximum extent feasible,” should this refer to “technically or economically Feasible, “, and how should “extent” be quantified?

CEI believes that the Collaborative Committee must determine the specific agencies responsible for recycling and reuse, and require lead agency sign-off for all aspects of waste management regulatory compliance (non-hazardous, solid).

- The California Integrated Waste Management Board has primary purview for all aspects of Municipal Solid Waste, pursuant to the “Integrated Waste Management Act of 1998”. Formal non-market participation of lead staff has been requested by CEI and approved by CIWMB Executive Director Mark Leary, through the auspices of the

California EPA (Ricardo Martinez, Border Unit). Mr. Howard Levenson and Mr. Fernando Berton of CIWMB participated in this Workshop, offering their direct assistance.

- Agricultural waste and bi-products, food-processing wastes, timber and wildlands fuel loading reduction materials, and industrial source segregated materials all have individual characteristics, contaminant profiles, enforcement infrastructures, and multi-level political policies far beyond the responsibilities of the Collaborative Committee.

Question 35: What, if any, additional criteria should the Energy Commission impose on these types of facilities?

CEI believes that the Collaborative Committee should hold questions of criteria by which “Certification” can occur, for Phase 2 Decision, as described in Workplan and discussed above, and solicit information broadly until then.

CEI is actively establishing a multi-party public/private Working Group as has been effective in previous RPS Workshops, to address technical criteria and specific questions related to this “Waste-to-Energy” topic. CEI asks the Collaborative Committee, and all service respondents, to contact CEI’s Representative as herein addressed, if parties have an interest in immediate participation in this Working Group effort.

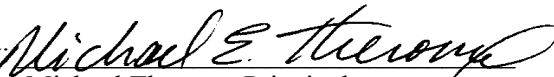
IV. Conclusion

CEI provides the above comments with the specific focused intent of addressing only issues germane to the CEI Facility. Lack of comments regarding other issues raised during the Collaborative Committee workshop does not indicate lack of interest or concern, nor should this limited response preclude future CEI comment, pleadings, or testimony before either Commission.

Chateau Energy, Inc. stands ready to reply to Commission, and to the Collaborative Committee, and to answer questions as needed on the above materials.

Respectfully submitted this 27th day of March, 2003 at Sacramento, CA.

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By 
Michael Theroux, Principal

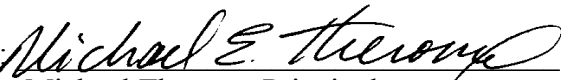
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CERTIFICATE OF SERVICE

I, Michael Theroux, certify that I have on this 27th day of March 2003 caused a copy of the foregoing **COMMENTS OF CHATEAU ENERGY, INC.** on the Energy Commission Docket No. 03-RPS-1078, to be served on the California Energy Commission, Dockets Office, 1516 Ninth Street, CA, by carrier delivery and electronic mail.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 27th day of March 2003 at Auburn, CA.

By: 
Michael Theroux, Principal